

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA DIVISION

*(Write the District and Division, if any, of  
the court in which the complaint is filed.)*

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY \_\_\_\_\_ DEPUTY CLERK  
*[Signature]*

Rogers, Kim Edward

*(Write the full name of each plaintiff who is filing  
this complaint. If the names of all the plaintiffs  
cannot fit in the space above, please write "see  
attached" in the space and attach an additional  
page with the full list of names.)*

-against-

DON NOTTOLI; RICH DESMOND; PHIL  
SERNA; PATRICK KENNEDY; SUE TRUST;  
MICHAEL KIELTY; CHARLES A. TORRETTA;  
NICOLE M. CAHILL, ET AL.

*(Write the full name of each defendant who is  
being sued. If the names of all the defendants  
cannot fit in the space above, please write "see  
attached" in the space and attach an additional  
page with the full list of names. Do not include  
addresses here.)*

**Complaint for Violation of Civil  
Rights**

(Non-Prisoner Complaint)

*(to be filled in by the Clerk's Office)*

Jury Trial:  Yes  No  
(check one)

222 CV 1085 KJM AC PS

**NOTICE**

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include only: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

**In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in *forma pauperis*.**



**L The Parties to This Complaint**

**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Rogers, Kim Edward
Street Address	2072 50 <sup>th</sup> Avenue
City and County	Sacramento, Sacramento
State and Zip Code	California 95822
Telephone Number	
E-mail Address	

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

**Defendant No. 1**

Name	DON NOTTOLI
Job or Title	CHAIR, SACRAMENTO BOARD OF <b>SUPERVISORS</b>
Street Address	700 H STREET, SUITE 1450
City and County	SACRAMENTO, SACRAMENTO
State and Zip Code	CALIFORNIA 95814
Telephone Number	916-874-5465
E-mail Address	
<input checked="" type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity	

**Defendant No. 2**

Name	RICH DESMOND
Job or Title	VICE CHAIR, SACRAMENTO BOARD OF <b>SUPERVISORS</b>

Street Address **700 H STREET, SUITE 1450**  
City and County **SACRAMENTO, SACRAMENTO**  
State and Zip Code **CALIFORNIA 95814**  
Telephone Number **916-874-5471**

**E-mail Address**

Individual capacity  Official capacity

**Defendant No. 3**

Name **PHIL SERNA**  
Job or Title **SACRAMENTO BOARD OF SUPERVISORS**  
Street Address **700 H STREET, SUITE 1450**  
City and County **SACRAMENTO, SACRAMENTO**  
State and Zip Code **CALIFORNIA 95814**  
Telephone Number **916-874-5485**

**E-mail Address**

Individual capacity  Official capacity

**Defendant No. 4**

Name **PATRICK KENNEDY**  
Job or Title **SACRAMENTO BOARD OF SUPERVISORS**  
Street Address **700 H STREET, SUITE 1450**  
City and County **SACRAMENTO, SACRAMENTO**  
State and Zip Code **CALIFORNIA 95814**  
Telephone Number **916-874-5481**

**E-mail Address**

Individual capacity  Official capacity

**Defendant No. 5**

Name **SUE TRUST**  
Job or Title **SACRAMENTO BOARD OF SUPERVISORS**  
Street Address **700 H STREET, SUITE 1450**  
City and County **SACRAMENTO, SACRAMENTO**  
State and Zip Code **CALIFORNIA 95814**  
Telephone Number **916-874-5491**

**E-mail Address**

Individual capacity

Official capacity

**Defendant No. 6**

Name **MICHAEL KIELTY**  
Job or Title **PRESIDENT, GEORGE HILLS INSURANCE**  
Street Address **3043 GOLD CANAL DRIVE, SUITE 200**  
City and County **RANCHO CORDOVA, SACRAMENTO**  
State and Zip Code **CALIFORNIA 95670**  
Telephone Number  
**E-mail Address**  
 Individual capacity       Official capacity

**Defendant No. 7**

Name **CHARLES A. TORRETTA**  
Job or Title **GEORGE HILLS CLAIMS ADMINISTRATOR**  
Street Address **3043 GOLD CANAL DRIVE, SUITE 200**  
City and County **RANCHO CORDOVA, SACRAMENTO**  
State and Zip Code **CALIFORNIA 95670**  
Telephone Number  
**E-mail Address**  
 Individual capacity       Official capacity

**Defendant No. 8**

Name **NICOLE M. CAHILL**  
Job or Title **ATTORNEY AT LAW**  
Street Address **955 UNIVERSITY AVENUE, SUITE 280**  
City and County **SACRAMENTO, SACRAMENTO**  
State and Zip Code **CALIFORNIA 95825**  
Telephone Number **916-974-8500**  
**E-mail Address**  
 Individual capacity       Official capacity

**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- Federal officials (a *Bivens* claim)
- State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

42 U.S.C. § 1981; 42 U.S.C. § 1985(3).

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

N/A

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

The Sacramento Board of Supervisors and George Hills Insurance have acted in bad faith against Plaintiff by failing to accept and pay a legitimate claim filed by the Plaintiff, against the Defendants insured. Defendants, both of them have subjected their (third party) insured to having their personal assets being put at risk. 42 U.S.C. § 1981, prohibits intentional racial discrimination in the making and enforcing of contracts. The prohibition against racial discrimination in contractual transactions extends to public and private officials. 42 U.S.C. § 1985(3), prohibits conspiracies when there is a “racial or perhaps otherwise class-based invidious discriminatory animus behind the conspirators’ action(s).



### **III Statement of Claim**

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

**A. Where did the events giving rise to your claim(s) occur?**

Sacramento, California.

**B. What date and approximate time did the events giving rise to your claim(s) occur?**

January 6, 2022.

**C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)**

Kim Edward Rogers has a direct action in which he has suffered injuries and damages for which the Defendants are legally responsible and Plaintiff is entitled to bring suit against the Sacramento Police Department's liability insurance without joining the insured or first obtaining a judgment against the Sacramento Police Department and/or its agents. The Board of Supervisors and George Hills Insurance were unreasonable in compensating Plaintiff for injuries caused by the third parties, and in this action, the Board of Supervisors and George Hills Insurance are now subjected to a lawsuit for bad faith. Implied obligation of good faith and fair dealing is explained as "in every insurance policy there is an implied obligation of good faith and fair dealing that neither the insurance company nor the insured will do anything to injure the right the other party to receive the benefits of the agreement. To fulfill its implied obligation of good faith and fair dealing, an insurance company must give at least as much consideration to the interests of the insured as it gives to its own interests. To breach the implied obligation of good faith and fair dealing, an insurance company must unreasonably act or fail to act in a manner that deprives insured of the benefits of the policy. To act unreasonably is not a mere failure to exercise reasonable care. It means that the insurer must act or fail to act without proper cause. "However, it is not necessary for the insurer to intend to deprive the insured of the benefits of the policy." "If the insurer denies benefits unreasonably (i.e., without any reasonable basis for such denial ), it may be exposed to the full array of tort remedies, including possible punitive damages ." Kim Edward Rogers claims that

he was harmed by Sacramento County Board of Supervisors and George Hills Insurance breach of the obligation of good faith and fair dealing because defendants failed to accept a reasonable settlement demand by Plaintiff in a lawsuit against the Sacramento Police Department and it's agents Katherine Lester, Sacramento Chief of Police, K. Simmons, #693, Sacramento Police Officer and P. Fong, #3015, Sacramento Police Officer. Plaintiff brought a lawsuit against Sacramento Police Department and it's agents Katherine Lester, Sacramento Chief of Police, K. Simmons, #693, Sacramento Police Officer and P. Fong, #3015, Sacramento Police Officer for a claim that was covered by George Hills Insurance policy. The George Hills Insurance failed to accept a reasonable settlement demand for an amount within policy limits. The Sacramento Board of Supervisors misrepresented to Kim Edward Rogers relevant facts and/or insurance policy provisions relating to any coverage at issue. The Sacramento Board of Supervisors and George Hills Insurance did not attempt in good faith to reach a prompt, fair, and equitable settlement of Kim Edward Roger's claim after liability. Defendants have required Kim Edward Rogers to file a lawsuit to recover amounts due under the policy by rejecting the amount he had made a claim. Sacramento Board of Supervisors and George Hills Insurance failed to settle the claim against its insured promptly once its liability had become apparent. Defendants have engaged in a bad faith action.

#### **IV. Injuries**

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

The Plaintiff has suffered mental and emotional trauma caused from the January 6, 2022 unlawful deprivation of his civil rights by the Defendants insured.

#### **V. Relief**

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I am asking for the nominal monetary damages guaranteed to Kim Edward Rogers under Section 1983 U.S.C., and any compensation guaranteed for victims of constitutional rights infringed upon by state actors. I will also ask the court to look at punitive damages against defendants listed in their individual capacities.

**VI. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: June 24, 2022.

Signature of Plaintiff Rogers, Kim Edward

Printed Name of Plaintiff Rogers, Kim Edward

**B. For Attorneys**

Date of signing: \_\_\_\_\_, 20\_\_.

Signature of Attorney \_\_\_\_\_

Printed Name of Attorney \_\_\_\_\_

Bar Number \_\_\_\_\_

Name of Law Firm \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

Personnel Services Department  
Joseph Hsieh, Acting Director



Risk Management  
Paul Hight, Manager

## County of Sacramento

April 27, 2022

Kim Rogers  
2072 50th Avenue  
Sacramento, CA 95822

RE: CLAIM and/or LAWSUIT AGAINST THE COUNTY OF SACRAMENTO  
Claim #: L2200446-0001  
Loss Date: 01/06/2022

**Please Reference Your Claim Number  
On Any Correspondence Sent to Our Office**

Dear Kim Rogers:

This is to advise you that your claim and/or lawsuit against the County of Sacramento was received at the Board of Supervisors on 04/22/2022.

George Hills Co. is the Liability Claims Administrator for the County of Sacramento. Your claim has been forwarded to their office for handling. Questions or concerns regarding your claim and/or lawsuit should be directed to George Hills Co. You may reach their office by calling (916) 859-4800.

George Hills Co. is an authorized agent for the County of Sacramento.

You are further advised that if the County of Sacramento should enter into any settlement negotiations with you, we reserve the right to deduct from the settlement, prior to disbursement, any pre-existing fees or assessments that you owe to the County.

Sincerely,

County of Sacramento  
Risk Management Office



May 13, 2022

Kim Edward Rogers  
2072 50<sup>th</sup> Ave  
Sacramento, CA 95822

NOTICE OF INSUFFICIENCY

RE:           CLAIM NO:                   L2200446  
OUR CLIENT:                           COUNTY OF SACRAMENTO  
OUR FILE NO:                        89119-35  
DOL:                                    01/06/22

Dear Mr. Rogers:

The claim that you presented against the County of Sacramento fails to comply substantially with the requirements of California Government Code Sections §910 and §910.2 or is otherwise insufficient, or will not be accepted for filing for the highlighted reasons listed below and therefore, will not be considered on its merits by the County.

1.       The claim fails to state the name and mailing address of claimant.
2.       The claim fails to state the mailing address to which the person presenting the claim desires notice to be sent.
3.       The claim fails to state the specific date, place or other circumstances of the occurrence, event, or transaction which gave rise to the claim being asserted.
4.       The claim fails to state the name(s) of the public employee(s) causing the injury, damage, or loss, if known.
5.       The claim fails to state the amount claimed as of the date of presentation, the estimated amount of any prospective injury, damage or loss so far as known, or the basis of computation of the amount claimed.
6.       The claim fails to state the date when the underlying lawsuit giving rise to the claim for indemnity was served.
7.       The claim was not signed by the claimant or by some person on his behalf.
8.       The claim and attached complaint do not contain facts showing that claimants are entitled to indemnity. There is no statutory cause of action against a public entity for equitable indemnity and this claim lacks facts sufficient to constitute a claim under Government Code Section §835.
9.       The claim and attached complaint fail to specify what type of indemnity is being sought.
10.      Other:

WARNING

You may amend your claim and present it to the County of Sacramento at any time before the expiration of six (6) months if your claim is for bodily injury, death, or damage to personal property (one year if your claim is for damage to real property) from the date of accrual of your cause of action or before final action on your claim is taken by the County, whichever is later. See Government Code Sections §910.6 and §910.8. You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Nothing herein, nor any actions taken by this public entity, or any of its officers, employees or agents with regard to the above-referenced matter, should be construed as a relinquishment or waiver of any legal requirement or any right of defense such as timeliness, sufficiency, proper presentation or any other matter which may be available to the County of Sacramento or any of its officers, employees or agents.

Cordially,

GEORGE HILLS COMPANY, INC.



Charles A. Torretta  
Claims Administrator  
Sacramento Office

Enclosures: 1. Proof of Service  
2. Original Claim Form

**PROOF OF SERVICE BY MAIL (CCP §1013(a)-2015.5)**

I am employed in the County of Sacramento, State of California. I am over the age of 18 years and not a party to the within action; my business address is PO Box 278, Rancho Cordova, CA 95741. On May 13, 2022, I served the attached

**NOTICE OF INSUFFICIENCY OF CLAIM**

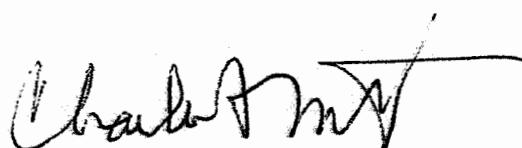
on the parties to said action by depositing a true copy thereof in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Rocklin, California, addressed as follows:

Kim Edward Rogers  
2072 50<sup>th</sup> Ave  
Sacramento, CA 95822

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Rocklin, California on:

Date: May 13, 2022



Charles A. Torretta

Personnel Services Department  
Sylvester Fadai, Director



Risk Management  
Paul Hight, Manager

County of Sacramento

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May 26, 2022

Kim E. Rogers  
2072 50th Avenue  
Sacramento, CA 95822

RE: CLAIM and/or LAWSUIT AGAINST THE COUNTY OF SACRAMENTO  
Claim #: L2200563-0001  
Loss Date: 01/01/2022

**Please Reference Your Claim Number  
On Any Correspondence Sent to Our Office**

Dear Kim E. Rogers:

This is to advise you that your claim and/or lawsuit against the County of Sacramento was received at the Board of Supervisors on 05/16/2022.

George Hills Co. is the Liability Claims Administrator for the County of Sacramento. Your claim has been forwarded to their office for handling. Questions or concerns regarding your claim and/or lawsuit should be directed to George Hills Co. You may reach their office by calling (916) 859-4800.

George Hills Co. is an authorized agent for the County of Sacramento.

You are further advised that if the County of Sacramento should enter into any settlement negotiations with you, we reserve the right to deduct from the settlement, prior to disbursement, any pre-existing fees or assessments that you owe to the County.

Sincerely,

County of Sacramento  
Risk Management Office

# LONGYEAR & LAVRA, LLP

*Attorneys at Law*

D. Van V. Longyear  
John A. Lavra

555 University Avenue, Suite 280  
Sacramento, California 95825

Kelley S. Kem  
Nicole M. Cahill  
Ashley M. Calvillo

TEL 916-974-8500  
FAX 916-974-8510  
[www.Longyearlaw.com](http://www.Longyearlaw.com)

Gigi Knudtson, *Of Counsel*

May 23, 2022

Kim Edward Rogers  
2072 50th Avenue  
Sacramento, CA 95822

Re: Claim No.: L2200446  
DOL: 01-06-2022  
GH File No.: 89119-35

Dear Mr. Rogers:

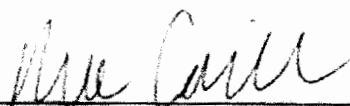
My office represents the County of Sacramento with respect to the above-titled claim. Charles Torretta with the George Hills Company forwarded your contact information to me. Please contact my office for all issues pertaining to this matter related to the County.

We are in receipt of your settlement demand for \$75,000. I have also listened to your voice messages pertaining to this demand. Please be advised that we do not represent the City of Sacramento or the Sacramento Police Department and are not authorized to settle any claims on their behalf. I attempted to call you at the phone number you left for Mr. Torretta to discuss these issues, but the voicemail box was full and I was unable to leave you a message.

Should you wish to discuss this matter further, please contact my office.

Very truly yours,

LONGYEAR & LAVRA, LLP

By: 

NICOLE M. CAHILL

NC/djg